Yankee Farm Credit, ACA

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June 18, 2014

Mr. Barry F. Mardock
Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22102-5090

Subject: Proposed Rule on Standards of Conduct Requirements (RIN 3052-AC44)

Dear Mr. Mardock:

On behalf of Yankee Farm Credit, I am writing to comment on the proposed rule published by the Farm Credit Administration (FCA) at 79 FR 9649 on Standards of Conduct and Referral of Known or Suspected Criminal Violations.

The directors and employees of Yankee Farm Credit take their responsibilities seriously, including the responsibility to act ethically. We support reasonable regulations on standards of conduct. We find the current regulations satisfactory, and we invest substantial time and effort in complying with those regulations. We find the proposed rule to be unnecessary, confusing and much more burdensome than the existing regulations. We ask FCA to reconsider the proposed rule in light of the comments below and in other comment letters, and to re-propose it for public comment or withdraw it.

As a general observation, I find no discussion in the proposed rule of why changes are necessary. The proposed rule merely says: "The FCA has not made significant changes to its standards of conduct regulations since 1994, and we have determined that it is appropriate to strengthen and modernize the rule." FCA provides no discussion of what has changed in the past 20 years or why the existing regulations are inadequate.

I believe the proposed rule does not meet the standard of President Obama's Executive Order 13579 issued on July 11, 2011. The introductory paragraph of that Executive Order states: "Wise regulatory decisions depend on public participation and on careful analysis of the likely consequences of regulation…To the extent permitted by law, such decisions should be made only after consideration of their costs and benefits (both quantitative and qualitative)." This language summarizes and restates general principles of sound regulation as expressed in earlier Executive Orders including no. 13563 issued by President Obama on January 18, 2011 and no. 12866 issued by President Clinton on September 30, 1993.

The proposed rule includes neither a "careful analysis of the likely consequences" nor a "consideration of their costs and benefits (both quantitative and qualitative)." I can find no discussion in the proposed rule about costs, benefits and likely consequences.

FCA states that "the proposed rule would not have a significant economic impact on a substantial number of small entities" because FCA considers System banks and associations on a consolidated basis (and hence not small). However, each System entity is required to have its own policies, procedures, reports, Standards of Conduct Official, determinations, and evidence of compliance. FCA should consider the economic impact on each institution, separately, for purposes of the Regulatory Flexibility Act.

Earlier this year FCA held a symposium on System consolidation. Chief Operating Officer Mr. William Hoffman wrote in an e-mail dated December 20, 2013, that "the symposium will explore several questions." First on the list of questions was: "What factors are driving institutions to consolidate?" I would submit that a significant factor is the increasing regulatory burden. The burdens of the proposed rule will be one more reason for smaller institutions to think about merger, so that the administrative overhead of compliance can be spread over a larger customer base.

The proposed rule will require Yankee Farm Credit to invest considerably more resources in the administration of standards of conduct responsibilities. As FCA notes at 79 FR 9652: "it may not be possible for one person to satisfactorily manage all of these responsibilities." I question why this additional expense is necessary.

The proposed rule places significant additional burdens on directors, and will discourage members from running for director. I question why FCA has not considered this negative aspect of the proposed rule.

The proposed rule will require the Standards of Conduct Official to understand the nature of all transactions between directors and borrowers in order to make a determination as to whether or not an actual or potential conflict of interest exists. This is an overwhelming task. Livestock, feed, supplies and equipment are routinely bought and sold between dairy farmers, for example. Processing and marketing operations routinely buy farm or forest products from other customers, especially in the timber and maple syrup industries. Many farmers, as well as operators in the forest products industry, routinely use the services of farm related businesses that may be customers.

The irony is that the proposed rule comes at a time when directors are becoming less involved in specific credit transactions. There has been a general trend over the years for directors at all System institutions to become less involved in specific credit approvals. It has been my impression that FCA has encouraged this trend. Earlier this year, the Yankee Farm Credit board completely removed directors from specific credit approvals.

I am also concerned that the proposed rule shifts responsibility from individual directors to the association and the Standards of Conduct Official, who must now enforce and ensure compliance. Associations should be responsible for insuring that all necessary steps have been taken to educate and inform directors about standards of conduct issues and requirements, but neither the association nor its Standards of Conduct Official should be held responsible for the actions of directors.

The proposed rule places additional burdens on agents, and will discourage agents from doing business with System institutions. I question why FCA has not considered this negative aspect of the proposed rule.

It is my understanding the proposed rule far exceeds corresponding standards of conduct requirements for directors, officers, employees and agents of other federally supervised financial institutions. If true, I question why this is so, and in any event, I question why FCA did not include a discussion of such a comparison in its proposed rule.

In closing, I appreciate the opportunity to provide comments. I urge FCA to reconsider the approach taken in this proposed rule and avoid prescriptive, confusing provisions that will make it difficult for directors to serve on Farm Credit System boards of directors.

Yankee Farm Credit also supports the more comprehensive comment letters that have been or will be submitted by the Farm Credit Council and CoBank.

Thank you for your consideration.

Sincerely,

George S. Putnam

George Putnam
President and CEO

cc: Board of Directors, Yankee Farm Credit